

REMARKS

Applicant has carefully studied the Office Action of July 1, 2005 and offers the following remarks to accompany the above amendments. Applicant appreciates the phone call with Examiner Shin on August 17, 2005 when the finality of the Office Action was discussed.

During the telephonic conversation, Applicant noted that the basis for the rejection had changed from a § 102 to a § 103. Applicant further noted that this change was not necessitated by an amendment made by Applicant or from a reference cited in an IDS by Applicant. As such, it was inappropriate to make the second Office Action final. MPEP § 706.07(a). Examiner Shin agreed with Applicant verbally and indicated that upon filing the response, the finality of the Office Action mailed July 1, 2005 would be removed. Based on the verbal representations of the Examiner, the current response is filed.

Applicant amends claims 1, 20, and 33 to recite that the generating is done before the sending and that the resending of the authorization indicia is subsequent to the first sending. Support for this can be found in Figure 3. No new matter is added. Applicant further amends claim 5 to recite that receiving is from the destination terminal. Claim 6 is amended to conform to amended claim 5. No new matter is added.

Before addressing the rejection, Applicant provides a brief summary of the present invention so that the remarks relating to the references are considered in the proper context. The present invention is directed to allowing resource reservation across networks that are not necessarily commonly operated. To this end, part of the network receives a request for authorization to establish a communication link between a call originator and a call destination. At that time, authorization indicia are generated. The authorization indicia allow network elements to confirm that the communication link and the use of the network element is authorized. The authorization indicia are sent to either the originator or the call destination. Whichever entity receives the authorization indicia then rescnds the authorization indicia to the network clements through which the communication link will be formed. The amendments to claims 1, 20, and 33 capture the time element of the initial sending of the authorization indicia and the subsequent resending of the authorization indicia.

Claims 1-14, 20-29, and 33-36 were rejected under 35 U.S.C. § 103 as being unpatentable over Eriksson et al. (hereinafter "Eriksson") in view of Chang et al. (hereinafter "Chang"). Applicant respectfully traverses. For the Patent Office to establish *prima facie*

obviousness, the Patent Office must show where each and every element of the claims is taught or suggested. MPEP § 2143.03. If the Patent Office cannot establish obviousness, then the claims are allowable.

Claims 1 and 33 recite initially sending the authorization indicia to at least one of the originating and destination terminals and subsequently sending the authorization indicia to at least one network element from the originating or destination terminal. This arrangement is not the logical result of the combination of references used in the rejection. As a result, the combination does not teach or suggest this arrangement.

Specifically, Eriksson teaches that terminal A makes a resource reservation request at point P1 in Fig. 2 (Eriksson, col. 3, lines 3-5). The access router AR receives this request and performs admission control on the resource reservation request (Eriksson, col. 3, lines 11-13). The AR then sends the request across the Internet to terminal B (Eriksson, col. 3, lines 27-29). In short, Eriksson's terminal A (the origination terminal), generates the authorization indicia and sends the authorization indicia to the network element (the AR). At no time is the authorization indicia sent to the origination terminal since the origination terminal was the source of the authorization indicia. The Patent Office admits that Eriksson does not teach sending the authorization indicia to the origination terminal (see Office Action of July 1, 2005, p. 3, lines 18-20). The Patent Office relies on Chang to supply the missing claim element.

Specifically, Chang teaches that a determination is made as to whether the reservation message from the switching node should be sent upstream to the sender node (Chang, col. 7, line 66-col. 8, line 1).

As amended, claims 1 and 33 clarify that the authorization indicia are initially sent to either the origination terminal or the destination terminal and then subsequently sent from the recipient terminal to the network element. The combination does not suggest this claimed arrangement. That is, the combination has the authorization indicia originating at terminal A (the origination terminal) and then sent to the AR. If one accepts the Patent Office's motivation to combine the references, Eriksson's terminal A would send the authorization indicia, and then Chang's switching node 34 would determine whether there is a need to send the reservation message from the switching node 34 to the sender (terminal A). As the reservation message would have come from the sender (terminal A), switching node 34 would never determine that the sender needed a copy of the reservation message. Thus, the combination does not suggest the

claimed arrangement. Alternatively, if the Patent Office insists that the switching node 34 would send the reservation message back to the sender despite the sender originating the reservation message, then the combination makes Chang unsuitable for its intended purpose which is reduction in the number of messages (see Chang, col. 8, lines 2-3). Making Chang unsuitable for its intended purpose is proof that the combination is non-obvious. MPEP § 2143.01.

Thus, the combination does not teach or suggest the claimed arrangement. Since the combination does not teach or suggest the claimed arrangement, the combination does not establish obviousness and claims 1 and 33 are allowable. Claims 2-4 and 34-36 depend from allowable claims 1 and 33 and are allowable at least for the same reasons.

Claim 5 has been amended to recite that the request is from the destination terminal. The Patent Office indicates that Eriksson teaches the request is from the origination or destination terminal and points to Eriksson, col. 2, lines 59-65. The cited passage indicates that the sender generates the request, but has no teaching that the destination terminal makes the request. Thus, as amended, Eriksson does not teach or suggest the claim element. The Patent Office points to nothing in Chang that cures the deficiency of Eriksson. Since the references individually do not teach or suggest the claim element, the combination of references cannot teach or suggest the claim element. Since the combination does not teach or suggest the claim element, the combination does not establish obviousness. Since the combination does not establish obviousness, claim 5 is allowable. Claims 6-8 depend from claim 5 and are allowable at least for the same reasons.

Claims 9 and 27 recite the sending of a request to establish communication with a remote terminal and the receiving of authorization indicia. Implicit in the claim is that the terminal of claim 9 does both of these functions, and that the software of claim 27 does both of these functions. The Patent Office indicates that Eriksson, col. 2, lines 59-65, col. 3, lines 3-6 and 11-13 teaches these two functions. However, this assertion is demonstrably false. As noted above, Eriksson teaches that terminal A sends the request for communication. To satisfy the claims, terminal A would also have to receive the authorization indicia. However, the Patent Office admits that Eriksson does not teach or suggest that terminal A receives the authorization indicia as noted above. Thus, the Patent Office's rejection does not set forth all the elements of the claim and does not establish obviousness for claims 9 and 27. Since the Patent Office's rejection does not establish obviousness for claims 9 and 27, claims 9 and 27 are allowable. Claims 10-

14, 28, and 29 depend from allowable claims 9 and 27 and are allowable at least for the same reasons.

Claim 20, as amended, recites the initial sending of the authorization indicia to one of the originating and destination terminals and subsequently sending the authorization to the network element. Thus, claim 20, in relevant part, is analogous to claim 1. Applicant is not entirely sure how the claim is being rejected. Specifically, the Patent Office states “(b) reserve resources for at least a portion of the communication based on the authorization indicia; (same as 1.c)”. However, this language does not correspond to the claim language, nor is it entirely clear how the citation to 1.c is relevant to element b of claim 20. The Patent Office further states “(c) route information to effect the communication. (see Eriksson col. 10, lines 58-60)”. Again, this language does not correspond to the claim language in claim 20.

Applicant proceeds as if the Patent Office had rejected claim 20 in the manner in which claim 1 was rejected. Since claims 1 and 20 have analogous elements, the combination of Eriksson and Chang is deficient for the reasons set forth above for claim 1. Thus, claim 20 is allowable. Claims 21-23 depend from claim 1 and are allowable at least for the same reasons.

Claim 24 recites a policy server that is adapted to perform the recited functions. The Patent Office opines that Eriksson, col. 4, lines 32-36 shows a policy server. Applicant respectfully traverses this assertion. While the cited passage talks about admission control being a function of policy rules, there is no teaching or suggestion of a policy server that performs the functions recited in the claim. Rather, the Patent Office then references Eriksson col. 3 to show the recited functions. Col. 3 discusses terminal A, the AR, the RR, and the Internet. There is no inherent requirement from the language of Eriksson col. 3 or 4 that requires a policy server. To this extent, the Patent Office’s analysis has not shown where in Eriksson the element is taught or suggested. Likewise, the Patent Office points to nothing in Chang to cure the deficiencies of Eriksson. Since the references individually do not teach or suggest the claim element, the combination of references cannot teach or suggest the claim element. Since the combination does not teach or suggest the claim element, the combination does not establish obviousness. Since the combination does not establish obviousness, claim 24 is allowable. Claims 25 and 26 depend from claim 24 and are allowable at least for the same reasons.

Applicant requests reconsideration of the rejection in light of the amendments and remarks. Applicant earnestly solicits claim allowance at the Examiner’s earliest convenience.

Respectfully submitted,

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